

United States Senate

WASHINGTON, DC 20510

December 15, 2019

The Honorable Mitch McConnell
Majority Leader
United States Senate
Washington, DC 20510

Dear Leader McConnell:

In a short time, the House of Representatives is expected to approve Articles of Impeachment against President Donald J. Trump. In response to the House's action, as you have noted, our rules require the Senate to conduct a trial to consider and vote on the Articles of Impeachment. This is an enormously weighty and solemn responsibility that was assigned to the Senate by the Framers of the Constitution.

Senate Democrats believe strongly, and I trust Senate Republicans agree, that this trial must be one that is fair, that considers all of the relevant facts, and that exercises the Senate's "sole Power of Impeachment" under the Constitution with integrity and dignity. The trial must be one that not only hears all of the evidence and adjudicates the case fairly; it must also pass the fairness test with the American people. That is the great challenge for the Senate in the coming weeks.

In keeping with the bipartisan spirit of the procedures adopted in the trial of President Clinton in 1999, and in order to advance what I believe are our shared objectives for the process in the trial of President Trump, Senate Democrats propose the following provisions for your consideration and in advance of our upcoming discussion. These provisions are modeled directly on the language of the two resolutions that set forth the 1999 trial rules. The first of those resolutions passed the Senate by a vote of 100-0, and the second resolution, allowing House Managers to call witnesses, passed with the support of all Senate Republicans.

Specifically, I propose that pre-trial housekeeping measures be adopted on Monday, January 6, 2020; that the swearing-in of the Chief Justice and Senators occur on Tuesday, January 7, 2020; that after a period for preparation and submission of trial briefs, the House Managers be recognized on Thursday, January 9, 2020 to make their presentation for a period of not more than 24 hours, followed by the presentation by the President's counsel, also for a period of not more than 24 hours.

In the trial of President Clinton, the House Managers were permitted to call witnesses, and it is clear that the Senate should hear testimony of witnesses in this trial as well. I propose, pursuant to our rules, that the Chief Justice on behalf of the Senate issue subpoenas for testimony by the

following witnesses with direct knowledge of Administration decisions regarding the delay in security assistance funds to the government of Ukraine and the requests for certain investigations to be announced by the government of Ukraine: Robert Blair, Senior Advisor to the Acting White House Chief of Staff; Mick Mulvaney, Acting White House Chief of Staff; John Bolton, former National Security Advisor; and Michael Duffey, Associate Director for National Security, Office of Management and Budget. All four of these witnesses were asked to testify in the House impeachment inquiry but did not appear.

We would of course be open to hearing the testimony of additional witnesses having direct knowledge of the Administration's decisions regarding the delay in security assistance funds to the government of Ukraine and the requests for certain investigations to be announced by the government of Ukraine, if the President's counsel or House Managers identify such witnesses. In order to ensure that the trial can be completed within a reasonable period of time, I propose that the total time allotted to testimony by each witness be limited to not more than four hours for the House Managers and not more than four hours for the President's counsel.

I also propose that the Senate issue subpoenas for a limited set of documents that we believe will shed additional light on the Administration's decision-making regarding the delay in security assistance funding to Ukraine and its requests for certain investigations to be announced by the government of Ukraine. This will be a narrowly drawn request limited to electronic communications, memoranda and related records of the relevant senior officials in the White House, Office of Management and Budget, and Department of State. Our understanding is that these records have already been collected by the White House counsel and counsel in the relevant agencies, so production in response to the Senate subpoenas should be neither burdensome nor time-consuming.

In addition, I propose that as in 1999 there be a period of not more than 16 hours equally divided for Senators' questions to the House Managers and President's counsel, and a period of not more than 6 hours equally divided between the House Managers and President's counsel for final arguments. Finally, I propose that there be a period of not more than 24 hours for deliberations by Senators followed by votes on the Articles of Impeachment.

We believe all of this should be considered in one resolution. The issue of witnesses and documents, which are the most important issues facing us, should be decided before we move forward with any part of the trial.

We believe this proposal, which is set forth in greater detail in the accompanying document, will allow for a trial in which all of the facts can be considered fully and fairly, and in which final votes can be taken within a reasonable period of time, without any unnecessary delay. Conducting the trial according to this plan will also allow the public to have confidence in the process and will demonstrate that the Senate can put aside partisan concerns and fulfill its constitutional duty.

I look forward to discussing this plan with you and to working with you to ensure that the Senate can rise to this critically important occasion.

Sincerely,

A handwritten signature in blue ink, appearing to read "Charles Sch", with a long horizontal flourish extending to the right.

Charles E. Schumer
United States Senator